

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,
Case No. - OA 535 of 2021**

MAHADEV MAHATO - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and Date of order	For the Applicant	: None
<u>11</u> 25.04.2024	For the State Respondent	: Mr.Soumendra Narayan Ray Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsel, the case is taken up for consideration sitting singly.

The applicant has prayed for a direction to the respondent authorities to grant him the pensionary benefits after setting aside the impugned reasoned order passed by the respondent authorities on 15.01.2021.

In short, the applicant was appointed on compassionate ground as a land loser by an order dated 19.11.2010. The applicant joined the post only on 06.09.2011. Having served less than 10 years, the applicant realised that he is not entitled for any pension. He filed an application before this Tribunal and a similar application was filed before the Hon'ble High Court. In terms of a direction, the respondent authority passed a speaking and reasoned order on 15.01.2021.

After hearing the submissions and examining the records, the Tribunal finds that such an appointment was communicated to the applicant by the Superintending Engineer on 29.08.2011 which enabled him to join the post on 06.09.2011. In the representation, the applicant expresses his grievance that there was a lapse of 9 months delay in

ORDER SHEET

Form No.

MAHADEV MAHATO

Vs.

Case No. **OA 535 of 2021**

THE STATE OF WEST BENGAL & OTHERS

communicating the order of appointment to him. On the other hand, having served for only 8 years and 6 months, the applicant has not become eligible for pensionary benefits with a shortfall of 18 months. Even if the delay of 9 months as agitated by the applicant is to be considered, there still would be a deficit of 9 months to qualify him for pensionary benefits. In fact, the delay appears to be not of approval of his appointment letter, but from his application it is evident that his name was empanelled under the exempted category as a land loser in the year 1995. Only upon the direction of the High Court in WP-635 of 2006, the Department was directed to consider the representation of the applicant. Therefore, the Tribunal finds that it is not the question of delay in communicating the appointment to him, but the delay had occurred in accepting him under the exempted category as a land loser. The Tribunal also finds that while during the service for 8 long years, the applicant had not felt it necessary to pray for condonation of the shortfall to qualify him for pensionary benefits. Though a copy of representation is filed with this application, but no dates are visible, therefore, it is questionable whether such representation was actually filed earlier or not.

Having examined this application closely, the Tribunal does not find any cogent and justifiable ground by which any delay was wilfully caused by the respondent authorities. It is unfortunate for the applicant that he is not pensionable for having worked less than 10 years, but such late realisation cannot be ascribed to the presumed delay engineered by the respondent authorities. As pointed out in the foregoing para, even if the lapse of 9 months in communicating the order of the Secretary to the applicant is to be considered, it still does not qualify him for pension, because since the date he took charge of the post, the shortfall of total 18

ORDER SHEET

Form No.

MAHADEV MAHATO

Case No. **OA 535 of 2021**

Vs.

THE STATE OF WEST BENGAL & OTHERS

months is still there to be filled up.

Having found no merit in the prayers, this application is disposed of without passing any orders.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

BLR